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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,193	03/12/2004	Hiromitsu Yamaguchi	1232-5326	8180
27123	7590	12/01/2008		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER GOLDBERG, BRIAN J	
			ART UNIT	PAPER NUMBER
			2861	
			NOTIFICATION DATE	DELIVERY MODE
			12/01/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/799,193

**Applicant(s)**

YAMAGUCHI ET AL.

**Examiner**

BRIAN J. GOLDBERG

**Art Unit**

2861

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-31 is/are pending in the application.
- 4a) Of the above claim(s) 18-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 18-31 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims are directed to patentably distinct species with mutually exclusive subject matter from the previously presented claims. For example, the current claim is directed to driving "while the print head and the print medium are relatively moved" where "the print elements belonging to the same drive block have the same drive timing and the print elements belonging to a different drive block have different drive timings" whereas the previously presented claim was directed to "dividing first print elements into a plurality of drive blocks and activating [these] drive blocks...on a time-division basis" and where "the second print elements have the same time-division drive timing." Further, the instant claim is directed to "print elements adjoining each other are allocated to different drive blocks" with part of the print elements in adjoining chips overlapped in a scan direction and "the number of the overlapping print elements is equal in number to an integer times the number of the print elements" whereas the previously presented claim was directed to second print elements in adjoining chips being aligned in a scan direction with *printing positions* which overlap in the scan direction and "number of second print elements is equal in number to an integer times the number of drive blocks." The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species, as set forth above. In addition, these species are not obvious variants of each other based on the current record. The

requirement is still deemed proper and is therefore made FINAL.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 18-31 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Response to Amendment***

1. The reply filed on 8/20/08 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): All of the claims have been cancelled or withdrawn from consideration. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

***Response to Arguments***

2. Applicant's arguments filed 8/20/08 have been fully considered but they are not persuasive. The newly presented claims are directed to patentably distinct species, as set forth above. The requirement is still deemed proper and is therefore made FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN J. GOLDBERG whose telephone number is (571)272-2728. The examiner can normally be reached on Monday through Friday, 9AM-5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Luu can be reached on 571-272-7663. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LUU MATTHEW/  
Supervisory Patent Examiner, Art Unit 2861

/Brian J. Goldberg/  
Examiner  
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